

Testimony in Opposition to HB 2735

House Transportation Committee March 5, 2012

KANZA RAIL TRAILS CONSERVANCY INC.

Honorable members of the Transportation Committee:

My name is Clark Coan I am a fifth generation Kansan who cares deeply about the state and its lands. Below is my analysis of the bill:

It is settled law that railbanked railroad rights-of-way are considered easements and easements as such, are not taxable under the Kansas Constitution. That is why the Kansas Court of Tax Appeals (COTA) has consistently ruled that such former railroad easements are not taxable and should not be entered onto the tax rolls:

*The evidence presented indicates that Kanza owns various right-of-way easements yet no real estate. Consequently, the Board finds that various Counties' actions listing Kanza as owner of the instant taxable real property and issuance of tax assessments to Kanza were in error. (Docket Nos. 2005-498-PR et al, In the Matter of the Protests of Kanza Rail-Trails Conservancy, Inc. For Taxes Paid for Various Tax Years in Various Counties in Kansas)*

Perhaps the best analogy in this case is a farmhouse along a county road. The landowner owns the property to the middle of the road, but does not pay real estate taxes on the road right-of-way. The owner also doesn't pay taxes on the underlying land held in fee simple. This is why railbanked railroad rights-of-way should be exempt from all taxation. Please amend HB 2735 to reflect this.

Thank you for paying attention to my comments.

Sincerely,

Clark Coan